IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

OP.No. 9486 of 1996(D)

PETITIONER:

1.. V.K. ANANDAN, AGED 35 YEARS, S/O. KUNJU KUNJU, RESIDING AT VATTAKKOTTATHIL HOUSE, CHITTOOR, SEETHATHODU VILLAGE, PATHANAMTHITTA DISTRICT.

2. P.N. ANANDAN, AGED 51 YEARS, S/O. NARAYANANKUTTY, RESIDING AT PUTHENPARAMBIL, KUMARAMPEROOR THEKKEKARA, VADASSERIKARA VILLAGE.

BY ADV. SRI.JOSE PALLATTUKARAN
SRI.T.S.MOHANAN
SRI.MATHEW ABRAHAM

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, SECRETARIAT, TVM.

2. SECRETARY, DEPARTMENT OF FORESTS, GOVT. OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

3. SECRETARY TO GOVT. OF KERALA, DEPARTMENT OF PERSONAL & ADMINISTRATIVE REFORMS (ADVICE CE), TVM.

4. THE CONSERVATOR OF FORESTS, DEPARTMENT OF FOREST, QUILON, CIRCLE, KOLLAM.

5. BABURAJA PRASAD A., AGED ABOUT 28 YEARS, S/O. LATE ARJUNAN, NOW WORKNG AS FORESTOR IN THE DEPARTMENT OF FOREST, KOKKATHODU FOREST STATION, NADUVATHUMOOZHI RANGE, KONNY FOREST DIVISION, QUILON CIRCLE.

6. SUDHEER C.K., AGED ABOUT 26 YEARS, NOW WORKING AS FORSTER AT NADUVATHUMMOOZHY FOREST RANGE UNDER KONNY DIVISIONAL FOREST OFFICE, WITHIN THE QUILON FOREST CIRCLE.

ADDL.R7: SAJU T.S., S/O. N. SAHADEVAN, AGED 21, AIKKIRAZHIKATH PADINJATTATHIL, PERUNAM P.O., KOLLAM,

8: JAYAN B.R, AGED 20, S/O. BHASKARAN PILLAI, KAMALALAYATH THEKKATHIL, KALLELI BHAGOM P.O., KRUNAGAPPAILLY, KOLLAM.

(ADDL. R7 AND R8 IMPLEADED AS PER ORDER IN CMP NO.19464/98 DT. 22.6.98)

R1 TO R4 BY SHRI K.V. MANOJ, GOVERNMENT PLEADER

R5 & R6 BY ADV. SHRI K.K.GOPINATHANNAIR & SRI.K.P.SATHEESAN

ADDL.R7 & R8 BY ADV. SMT.AYSHA YOUSEFF

SRI.M.A.FAROOQUE MARICKAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NOS.16126/96 & 19465/98

DISMISSED.

6/6/2007 SD/- T.R. RAMACHANDRAN NAIR, JUDGE

APPENDIX

EXT.P1-TRUE COPY OF REPRESENTATION DATED 11.4.96

EXT.P2-TRUE COPY OF ACKNOWLEDGMENT CARD SIGNED BY THE FIRST RESPONDENTS

EXT.P3-TRUE COPY OF JUDGMENT OF THIS COURT.

// TRUE COPY //

P.S. TO JUDGE

T.R. Ramachandran Nair, J.

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O.P.NO.9486 of 1996-D

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Dated this the 6th day of June, 2007

JUDGMENT

This original petition is filed by two petitioners. The petitioners have been working as Forest Guards in the Department of Forests at the time of filing of the original petition. The main prayer in the original petition is for a direction to the respondents to forbear from making compassionate appointment till fresh orders are framed by the Government as directed by this court in Ext.P3 judgment. In C.M.P. No. 16126/1996 this court had passed an order of stay on 14.6.1996. Subsequently, the same has been vacated as per order dated 3.8.1998. Later, additional respondents have been appointed under the scheme for compassionate appointment.

The main grounds raised in the original petition are that appointments under compassionate employment scheme were being made arbitrarily and without framing proper rules for such appointment. It is also contended that the said appointment will adversely affect the right of the petitioners for promotion to the post of Forester.

Respondents 1 to 3 have filed a counter affidavit. It has been reiterated in the counter affidavit that appointment under compassionate

employment scheme is made against vacancies ear-marked for direct recruitment and therefore the promotional avenues of the Forest Guards who are already in service are not adversely affected by resorting to appointment under the said scheme. It is further contended that the posts of Foresters are not exclusively ear-marked as the promotion posts of Forest Guards and that 65% of the post of Foresters alone are made through promotions from Forest Guards. The counter affidavit also points out that in G.O.(P) No.7/95/P&ARD dated 30.3.1995 which was the latest scheme at the relevant time governing the issue, there is no insistance that the appointment under the scheme shall be made in the entry cadre.

In the light of the above facts pleaded in the counter affidavit filed by respondents 1 to 3, there is no merit in the contentions raised by the petitioners. Petitioners have raised a contention that such appointments will affect their fundamental rights for promotion, which is not correct at all. None of the rights of petitionrs are affected by the scheme for compassionate employment. Promotions to higher posts are made under the relevant special rules in the quota ear-marked. Hence, the apprehension raised by petitioners is not correct. At any rate, the right of the petitioners for promotion to the higher cadre in the department is not affected by the appointment made by the respondents under the scheme for compassionate appointment. Therefore, the reliefs sought for in the original petition are

not liable to be granted and the Original Petition is dismissed.

(T.R. Ramachandran Nair, Judge.)

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T.R. Ramachandran Nair, J.

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O.P.NO.9486 of 1996-D

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JUDGMENT

6th day of June, 2007